

RHODE ISLAND DISTRICT, &c.

At a circuit court of the United States, begun and held at Providence, within and for the Rhode Island district, on the fifteenth day of November, in the year of our Lord one thousand eight hundred and forty-nine.

Present, the honorable Levi Woodbury, associate justice Supreme Court United States.

The honorable John Pitman, United States district judge, for Rhode Island district.

James M. Clarke, esq., United States district attorney, for Rhode Island district.

George W. Jackson, esq., U. S. marshal, for Rhode Island district.

John T. Pitman, clerk.

In the record of the proceedings of the said court, among others, are the following, to wit:

Bill in equity.

JAMES STEVENS

vs.

GLADDING & PROUD,

Be it remembered, that on the first day of July, A. D. 1847, of the circuit court of the United States, for the Rhode Island district, the following bill was filed:

CIRCUIT COURT, RHODE ISLAND DISTRICT.

In chancery.

To the judges of the circuit court of the United States, for the district of Rhode Island.

James Stevens, of the town and county of Newport, State of Rhode Island, &c., and a citizen of the State of Rhode Island, &c., having this his bill against Royal Gladding and Isaac H. Proud, dealing business under the firm of Gladding & Proud, booksellers and stationers, successors of Isaac H. Cady, of the city and county of Providence, in the State of Rhode Island, &c., both citizens of the State of Rhode Island, &c., and, thereupon, your orator complains and says:

That according to an act of Congress of the United States entitled, "An act to amend the several acts respecting copyrights," approved on the third day of February, A. D. one thousand eight hundred and thirty-one, your orator obtained the sole and exclusive copyright for twenty-eight years, for printing, publishing, and selling, to the world, exclusive benefit, "a Topographical Map of the State of Rhode Island and Providence Plantations," (in original certificate of said

Copyright is hereto attached, and is prayed to be taken as part of the bill.

And that your orator has fulfilled all the requirements of said Act of Congress, and every other duty and thing on his part, to complete the copyright thereto.

Your orator further states, that he has never, at any time, given consent or permission to any person or persons whatever, to print, publish, and sell, any copy or copies of said map of the State of Rhode Island and Providence Plantations; but, on the contrary, your orator always has been, and still continues to be, the sole proprietor of the map aforesaid; and that he always has printed, published, and sold, and still continues to print, publish, and sell, the map aforesaid.

And your orator further states, that having great reason to believe and expect that the sales of the copyright map aforesaid would be and, extensive, and profitable, and that, under the provisions and protection of the act of Congress above named, your orator should continue to print, publish, and sell the map aforesaid, and to enjoy the sole benefit, profit, and advantage arising therefrom, without his copyright thereto being violated or infringed, or having any indignation or damages inflicted, by any person or persons whatever, as in Justice and equity ought to have been the case.

But now, so it is, that said Royal Gladding and Isaac T. Prend, of the city and county of Providence, in Rhode Island district, citizens of the State of Rhode Island, &c., booksellers and stationers, their servants, workmen, agents, and others, combining and confederating together, and with divers other persons at present unknown to your orator, and contriving how to wrong and injure your orator, by depriving him of the gains and profits which he was and is entitled to have and receive from the sole and exclusive privilege of printing, publishing, and selling of said topographical map of the State of Rhode Island and Providence Plantations, the said Royal Gladding and Isaac T. Prend, their servants, workmen, agents, and others, have, within the year last past, printed, published, and sold, and will so continue to print, publish, sell, and expose to sale, a certain other topographical map of the State of Rhode Island and Providence Plantations, of the same size, the same lettering, the same topographical characters, and the same general appearance in the title and in the body of the main design, as the true copyright map of your orator, excepting the addition of the names of some few and unimportant private places, the insertion of parts of two or three railroads, now built, or contemplated, and some small changes, and many other wrongs and injuries have been in and about the premises, to the great damage and loss of your orator.

And your orator further states, that the copperplate engraving, from which the genuine copyright map was printed or impressed, has been at some time previously discarded and laid aside by him, from any further use, a being the intention and determination to have the topographical map aforesaid etched and engraved on steel plates, for the

purpose of producing a more distinct appearance of the whole work, and for correcting any defect therein, and for inserting all the late improvements, railroads, factories, mills, and churches thereon.

That your orator has good reason to suspect and believe, that said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, have obtained the same identical discolored copperplate engraving, by some means to your orator wholly unknown, and have either used the same copperplate, or a similar one, for the purpose of printing therefrom their spurious, illegitimate, and pirated edition of the topographical map aforesaid; and that they have either printed and published, or have caused to be printed and published, at their own expense, the spurious, illegitimate, and pirated edition of the map aforesaid, in order to sell and dispose of the same at an undervale or cheaper price than that sold by your orator for their own benefit, thereby depriving your orator of the sole benefit and advantage of his copyright in and to said map; that a copy of said spurious, illegitimate, and pirated map has been purchased at the store of the said Royal Gladding and Isaac T. Proud, in the city of Providence, Rhode Island, for the sum of two dollars.

And your orator charges, that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, have sold and disposed of two thousand, or a great number of copies or impressions of the spurious, illegitimate, and pirated map aforesaid, and will continue to expose to sale the same, to the great damage and injury of your orator, all which actings and doings are contrary to equity and good conscience, and tend to the manifest wrong and disadvantage of your orator in the premises.

To the end, therefore, that the defendants may, if they can, shew why your orator should not have the relief hereby prayed; and may upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written they are respectfully required to answer, that is to say:

1. Whether any, and if any, what number of copies of the map above named you or your servants, workmen, agents, or others, have printed and published, or caused to be printed and published, by you or their order, or by either of their orders, for your and their, or either of their use and benefit?

2. Whether any, and if any, how many, and what number of copies of the map above named, have been sold or disposed of by you or by others for you, for your or their benefit, or either of their benefit, and for what price or prices said maps have been sold for and continue to be sold for?

3. Whether any, and if any, what number of copies of said map above named remain unsold, and in whose hands or possession said maps, or any of them, remain?

1. Who printed the maps above named, and where, and at what time were they printed, by whom were they colored, or what colored, by whom engraved, and at what price or prices?

2. Who engraved the copper plate from which the above named map was printed, and at what cost or price, in whole or in part?

3. Who engraved on the copper plate, or otherwise, the railroads and other alterations and additions to the map above named, and at what cost or expense?

4. In whose hands or possession is the copper plate on which you, or some other person or persons for you, have engraved the map above named?

5. Who were, and who now are your servants, workmen, agents, and others, who assisted you in printing, publishing, selling, and exposing to the publick or any of the above named maps, for your or their use or benefit or for either of their use or benefit, and who confederated with you and others, or with you alone, for the purpose of printing, publishing, vending, or exposing to sale for your or their profit, use, and benefit the map above named?

And that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, his confederates, may be respectively restrained, by order and injunction of this honorable court, from the further printing, publishing, selling, or exposing to sale, by themselves, their servants, or agents, the said map of the State of Rhode Island and Providence Plantations, or in any way being concerned in the printing, publishing, selling, or exposing to sale any copy or copies of said map, or of any other map or maps purporting to be, or resembling the map printed, published, and sold by your orator.

And that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, his confederates, may be decreed (according to the act of Congress hereinabove named) to deliver unto your orator "the plate or plates" on which he or they have printed or caused to be printed the spurious, illegitimate, and pirated maps of the State of Rhode Island and Providence Plantations, and also to deliver unto your orator "all and every sheet thereof so copied or printed," and that they be also decreed to pay into the hands of your orator the sum of "one dollar for every sheet of said map which they have printed or caused to be printed or published or exposed to sale, one moiety thereof to your orator, and the other moiety to the use of the United States."

May it please this honorable court to grant unto your orator a writ of subpoena, to be directed to the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, hereby commanding them, and them, at a certain day, and under certain pains therein to be named, personally, to be and appear before this honorable court, and then and there fully true, direct, and perfect answers make to all and singular the premises; and further to stand to, reform, and abide the aforesaid order, direction, and decree herein, as to this honorable court shall seem meet, and that your orator may have such other relief in the

accordance with the law of the land, and the facts and circumstances of the case may require, and to the honorable court may deem meet; and your Grator shall be at hand.

Perz.—The defendant is required to answer the interrogatories numbered 1, 2, 3, 4, 5, 6, 7, 8, herein above inserted.

JAMES STEVENS.

RHODE ISLAND DISTRICT, sc.

Clerk's office, circuit court, at Providence, July 1st, 1847.

Then personally came James Stevens, subscriber to the foregoing bill, and made solemn oath, that the facts and statements therein contained were true and correct, according to the best of his knowledge and belief.

Before me,

JOHN T. PITMAN, CLERK.

Fees, 25 cents—paid by James Stevens.

“District of Rhode Island, to wit.

“Be it remembered, that on the twenty-third day of April anno Domini one thousand eight hundred and thirty-one, James Stevens, of the said district, hath deposited in this office the title of a map, the title of which is in the words following:

“A Topographical Map of the State of Rhode Island and Providence Plantations, surveyed, trigonometrically and in detail, by James Stevens, topographer and civil engineer, Newport, Rhode Island, 1831; the right whereof he claims as author, in conformity with an act of Congress, entitled ‘An act to amend the several acts respecting copyright.’”

(Signed)

BENJAMIN COWELL, [r. s.]
“Clerk of the Rhode Island district.”

Subpoena.

RHODE ISLAND DISTRICT, sc.

The President of the United States of America, to Royal Gladding and Isaac T. Proud, of the city and county of Providence, in the [r. s.] State of Rhode Island, booksellers and stationers, doing business under the firm of Gladding & Proud, both citizens of the State of Rhode Island, &c., greeting:

For certain causes offered to our circuit court, for the third circuit, within and for the Rhode Island district—in chancery:

We hereby command and strictly enjoin you, and each of you, that laying aside all other matters and things, and notwithstanding any other excuse, you, and each of you, personally appear at the place where the said court, in Providence, on Monday, the third day of August next, being the 10th day of said court, and then and there fully, true, and

whereas your several corporal called to the bill of complaint of James Gladding & Co., of the town and county of Newport, State of Rhode Island, &c., and a citizen of the State of Rhode Island, &c., is filed of record in the clerk's office of said court, and to do and receive whatever our said court shall order against you in the premises in his behalf, and thereof fail not, under the pains and penalties that may accrue in consequence of neglect thereof.

And the marshal of said Rhode Island district, or his deputy, is hereby commanded to make service of this writ by rendering the same to the hands of John and Isaac T., or by leaving a true and attested copy hereof at their several law and usual places of abode, twenty days before the trial day aforesaid.

Witness the honorable Roger B. Taney, our chief justice, at Providence, this second day of July, A. D. 1847.

JOHN T. PITMAN, Clerk.

Notice.—The appearance of the respondents in the suit is to be entered in the clerk's office on or before the return day of this writ, otherwise the bill may be taken pro confesso us against those not appearing.

United States of America,
Rhode Island district, sc.

PROVIDENCE, July 2d, 1847.

Made service of the within subpoena by delivering in hand of the witness named Gladding & Proud a true copy hereof,

B. ANTHONY,
U. S. marshal, R. I. district.

Fees—service	- - -	\$4 00
Copies	- - -	1 00
Travel	- - -	10
<hr/>		
		\$5 10

And on the second day of said July, a petition for injunction was filed, as follows, viz:

Petition for injunction.

RHODE ISLAND DISTRICT.

To the judge of the district court of the United States, for the Rhode Island district.

Whereas your petitioner, James Stevens, of the town and county of Newport, in the State of Rhode Island, &c., a citizen of the State of Rhode Island, &c., hath brought his bill in chancery, in the circuit court of the United States, in the Rhode Island district, against Rural Gladding and Isaac T. Proud, of the city and county of Providence, in

the State of Rhode Island, booksellers and stationers, doing business under the firm of Gladding & Proud, both citizens of the State of Rhode Island, whom to which bill has been added, in a way of injunction, to restrain the infringement of a copyright granted to your petitioner, where an act of Congress of the United States entitled, "An act to amend the several acts respecting copyrights," approved the third day of February, anno Domini 1831, for the sole right and liberty as author and proprietor, to print, publish, and sell, for his own exclusive profit, benefit, and advantage, a topographical map of the State of Rhode Island and Providence Plantations, for the term of twenty-eight years, in which bill in chancery, your petitioner has prayed the court aforesaid, that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, may be restrained by the order and injunction of said court, from the further printing, publishing, selling, or exposing to sale, the said topographical map of the State of Rhode Island and Providence Plantations, or in any way being concerned in the printing, publishing, selling, or exposing to sale, any copy or copies of said map, or of any other map or maps purporting to be, or resembling the map printed, published, and sold by your petitioner.

And, forasmuch as your petitioner has not had reasonable time to apply to the circuit court of the United States for the writ of injunction, according to the act of Congress of the 13th of February, 1807, he therefore hereby petitions this honorable court to grant unto him the order of injunction prayed for in his said bill.

JAMES STEVENS.

Notice on petition.

RHODE ISLAND DISTRICT, &c.

To Royal Gladding and Isaac T. Proud, of the city and county of Providence, in the State of Rhode Island, booksellers and [L. S.] stationers, doing business under the firm of Gladding & Proud, greeting:

Whereas James Stevens, of the town and county of Newport, in said State of Rhode Island, has filed in the circuit court of the United States within and for the Rhode Island district, a bill in equity against you, relative to a certain copyright granted to said Stevens, under an act of Congress of the United States, and which is more fully set forth on said bill.

And has also filed before our district judge for said district, the bill having had reasonable time to apply to said circuit court, to restrain wherein he sets forth and prays that you, your servants, workmen, agents, and others, may be restrained from further printing, publishing, selling, or exposing to sale, the topographical map of the State of Rhode Island and Providence Plantations, or maps resembling the same, which he has said copyright for.

You are, therefore, hereby advised, that our said judge will hear

Notice of injunction.

Injunction at the inferior court room in Providence, on Tuesday, the
1st day of July instant, at 11 o'clock, A. M., at which place all time
and notice to appear, if you have any objection to the meaning
and relation.

Dated at Providence, this second day of July, A. D. 1847.

JOHN T. PITMAN,

Clerk of district court for Rhode Island district.

UNITED STATES OF AMERICA,

Rhode Island district, &c.

July 23, 1847. Made service of the within monition by delivering
in hand of the within-named Gladding & Proud a true copy hereof.

B. ANTHONY, United States marshal.

Fees - - - \$4 00.

Copies - - - 1 00.

Affidavit of Royal P. Gladding.

RHODE ISLAND DISTRICT, &c.

Circuit court of the United States, for Rhode Island district.

November 7, 1847.—In equity.

In the matter of the injunction in case

James Stevens

vs.

Gladding & Proud.

Royal P. Gladding, of Providence, of the firm of Gladding & Proud,
booksellers, &c., maketh oath and saith, that the bookstore price of the
first edition of Stevens' map of Rhode Island, as sold under said Stev-
ens' direction, was three dollars per copy, and that this edition did not
exceed a thousand copies, as this affiant has been informed and be-
lieves; the sale consumed a period of nearly sixteen years, from 1830 to
1846; that the last eighteen months the booksellers' price of the new
and improved edition of said map, published by Isaac H. Cady, has
been two dollars per copy, and that said map cannot be profitably sold
at a greater price, that the price of three dollars would be very high in
comparison with the price of other maps, and that the price of two dol-
lars would be full as high as it should be, in comparison with the price
of other maps; that the season of sale of this and other maps has now
come on, the public and other schools now supplying themselves for
the winter, and that the loss of this season of sale would be greatly de-
minimous to whomsoever is interested in the profits or the sale of this
map; that said map is frequently called for, and that in consequence of
said injunction, your affiant has been obliged to refuse many applica-
tions for purchase.

ROYAL P. GLADDING.

Providence, November 24, 1847.

RHODE ISLAND DISTRICT, &c.

In Providence, this twenty-fourth day of November A. D. 1847,
subscribed and sworn to by Royal P. Gradding.

Before me,

HENRY MARTIN,

Public Notary.

Affidavit of Charles Burnett, Jr.

RHODE ISLAND DISTRICT, &c.

Circuit court of the United States, within and for the Rhode Island
district, November 7, 1847.

In equity.

In the matter of the injunction in the case

James Stevens }
vs.
Gradding & Pound }.

Charles Burnett, Jr., of Providence, bookseller, maketh oath and saith, that, as he believes, the first edition of Stevens' map of Rhode Island was sold at the price of three dollars per copy, at the retail booksellers price; that the retail price of Cindy's edition of said map has been two dollars per copy, ever since the same was published, the same having sold said map at that price as the usual price of the same; that the price of three dollars per copy, for said map, would be high in comparison with the prices of other maps; and that, in his opinion, two dollars per copy would be a fair retail price for the same; that the present injunction against the sale of said maps is greatly detrimental to the interests of those who may be concerned in the profit of the sale of the same, as said map will, if the sale is long delayed, be out of date; that the season for the sale of this and other maps has now come on, and said map is much inquired for, and the loss of it must prove injurious to all concerned in said maps.

CHARLES BURNETT, Jr.

RHODE ISLAND DISTRICT, &c.

In Providence, this twenty-fourth day of November A. D. 1847,
subscribed and sworn to by Charles Burnett, Jr.

Before me,

HENRY MARTIN,

Public Notary.

At chambers, July 6th, 1847.

On motion of plaintiff for an injunction, due notice thereon having been given to the defendant, upon a hearing thereof, ordered by the several parties, that the injunction prayed for in the writ above is granted, and the same is granted until the further order of this circuit court.

JOHN SUMMERS,

Clerk of Court.

State of Rhode Island.

And on the sixth day of October, 1847, the following answer was filed:

Answer of Cladding & Proud.

Circuit court for the Rhode Island district.

In equity.

JAMES STEVENS

vs.

ROYAL CLADDING & ISAAC T. PROUD,

The answer of said Royal Cladding and Isaac T. Proud to said bill, or so much thereof as they are advised it is material or necessary for them to make answer unto, saving to themselves all exceptions to said bill, for or on account of any informalities or insufficiencies therein, answering, they say, that in receiving and selling all the traps referred to in said bill, these defendants received the same and sold the same as the agents of Isaac H. Cady, and under his right and authority to receive and sell the same, and not otherwise.

And these defendants further answering say, that they have been informed and believe, that said Isaac H. Cady has, and had good right to make, print, and sell all the traps referred to in said bill, and delivered to and sold by these defendants; and so state and charge the fact to be, in that these defendants have been informed and believe, and so charge the fact to be, that Sarah Stevens, of Fall river, in the State of Massachusetts, on or about the 11th day of April, 1846, having recovered a judgment against said James Stevens, for one hundred and seventy-six dollars damages, and eighteen dollars and twenty-three cents costs of suit, before the court of common pleas, holder at Taunton, within and for the county of Bristol, in said State of Massachusetts, on the second Monday of March, 1846, which court had jurisdiction of said cause, took out from said court a writ of execution duly issued by said court, under the seal thereof, and signed by the clerk thereof, and dated the 11th day of April, 1846, all in due form of law, as will appear by the records and files of said court, exemplified copies of which are ready in court to be produced as the court may direct, commanding the sheriff of the county of Bristol aforesaid, that of the goods and chattels and lands of the said James Stevens, within said county, he should cause to be paid and satisfied unto said Sarah Stevens, at the value thereof in money, the said sum of one hundred and thirty-four dollars and twenty-three cents in the whole, and twenty-five cents more for said writ of execution, and thereof also to satisfy himself his fees in the premises, and for want of such goods, chattels, or lands of the said James Stevens, by him shown or found within his jurisdiction, to the acceptance of the said Sarah Stevens, the sheriff was commanded to and by said writ to take the body of said James Stevens, and him commit to the jail in Taunton or New Bedford, in Bristol, and him detain in custody within said jail, until

he should pay the sums above mentioned, with the fees thereon, or be lawfully discharged by said Sarah Stevens, or by order of law; and that said sheriff should make due return of said writ with his doings thereon; all which will more fully appear by the records and files of said court of common pleas, exemplified copies of which are ready to court to be produced, as this court may direct.

And these defendants further answering say, that said James Stevens neglected to pay said debt and satisfy said execution, but left at Fall River aforesaid, within the precincts of said sheriff, to whom said execution was delivered for collection, said copperplate named in said bill, with said map engraved thereon, to be levied upon and sold to satisfy, from the sale thereof, said execution, and made no other provisions for the satisfaction and payment of the same; and said sheriff at said Fall River, on or about the 25th day of April, 1846, levied said execution upon said copperplate with said map engraved thereon, and duly posted and advertised the same for sale to satisfy said execution; and after the expiration of more than four days after said levy, and after giving said James Stevens full opportunity to pay and satisfy said execution, and have said property from being sold, if he had chosen so to do, said sheriff on or about the 6th of May, 1846, at Fall River aforesaid, sold at public auction said copperplate, with said map engraved thereon, to the said Isaac H. Gady, for the sum of two hundred and forty-five dollars, that being the full value thereof with said map engraved thereon, and he being highest bidder for said property; and on the 9th day of said May, said Gady paid said sheriff said sum of two hundred and forty-five dollars, for which he had bid off said property, and took his receipt therefor, and received said copperplate with said map engraved thereon from said sheriff as his property, and ever since said Gady hath had and held and used said property as his own; and that said Gady, since said copperplate hath been owned and possessed by him, hath used the same to print maps therefrom, and hath printed all the maps he hath printed, made, or sold from said plate, and used no other plate for printing said maps. And that all the maps which these defendants have ever received or sold from said Gady, or any one else, were printed and made from and by the use of said copperplate, with the knowledge and legal assent of said James Stevens given as aforesaid.

And these defendants further answering say, that with the money received from said Gady in payment of said plate and said engraving thereon, said sheriff paid said debt and satisfied said execution, and said James Stevens became thereby discharged therefrom; and after paying and satisfying said execution, said sheriff returned to said Stevens the balance over and above paying the same, amounting to about sixty-two dollars, which said Stevens accepted, as these defendants have been informed and believe.

And these defendants further answering say, that said copperplate without said map engraved thereon would have been of small value, as these defendants believe, not over ten or fifteen dollars; and that the principal value of said copperplate, as aforesaid purchased by said

Cady, arose from the engraving thereon, as said James Stevens well knew, and that the value of said plate, with said map engraved thereon, has been applied in payment of said James Stevens's debt, except such portion thereof as he received from said sheriff after said sale.

And these defendants most respectfully submit to this honorable court, that said Isaac H. Cady, by his aforesaid purchase of said copperplate, with said map aforesaid thereon, in manner aforesaid, acquired a right to use the same for printing maps of said State of Rhode Island, in manner aforesaid, and had good right to employ these defendants to sell the same.

And these defendants aver, that all the maps they have received for sale, or sold, were received from said Isaac H. Cady, and were sold under his right to make, print, and sell the same.

And these defendants submit to this honorable court, that by reason of the facts aforesaid, and the purchase of said plate and said map engraved thereon, these defendants became possessed of the right to print and publish said maps of the State of Rhode Island and sell the same, and that said Stevens hath virtually, impliedly, and legally assented thereto. And as to any fraud or conspiracy charged in said bill, these defendants say the same is not true, and these defendants submit to this honorable court, that they are not bound to make any other or further answer to said bill, and pray to be dismissed hence with their costs in this behalf expended.

ROYAL P. GLADDING,
ISAAC T. PROUD.

TILLINGHAST & BRADLEY,
Solicitors for respondents.

RHODE ISLAND DISTRICT, &c.

Clerk's office, circuit court, at Providence, October 6th, 1847.

Then personally appeared the subscribers to the foregoing answer, and severally made oath that the facts and statements therein contained were true and correct, according to the best of their knowledge and belief.

Before me,

JOHN T. PITMAN, Clerk.

And on the 6th day of November next, the complainant replied as follows:

Replication.

UNITED STATES CIRCUIT COURT, Rhode Island district.

In equity.

The replication of James Stevens, complainant, to the answer of Royal Gladding and Isaac T. Proud.

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith, that he will swear and prove his

said bill to be true, certain, and sufficient in law to be answered unto; and that the said answer of said defendants is uncertain, untrue, and insufficient in law to be replied unto by this plaintiff. Without this, that any other matter or thing whatever in the said answer contained, material or essential in the law to be replied unto, confessed, and avoided, traversed, or denied, is true. All which matter and things this plaintiff is and will be ready to aver, maintain, and prove, as the honorable court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

JAMES STEVENS.

And at the November term, 1847, the following order was entered:

"Injunction so modified, as to allow defendants to sell maps, upon giving bond not to sell them for less than \$2 50, and to pay the money into court, to abide the result of the suit."

At the June term, 1848, on motion of complainant, by agreement, the foregoing replication was withdrawn, and the following exceptions to the answer were put in:

Exceptions.

CIRCUIT COURT OF THE UNITED STATES,
Rhode Island district.

In equity.

Between James Stevens, complainant, and Royal Gladding and Isaac T. Proud, defendants.

An exception taken by said complainant to the insufficient answer of said defendants: For the said defendants have not, to the best and utmost of their knowledge, remembrance, information, and belief, full, true, direct, and perfect answer made to the several interrogatories hereinafter numbered and set forth from 1 to 8, inclusive, as by the note in the bill of this complainant they are required to answer, that is to say:

1. Whether any, and if any, what number of copies of the map above named, you or your servants, workmen, agents, or others, have printed, or caused to be printed, by your or their order, or by either of their orders, for your, their, or either of their use or benefit?

2. Whether any, and if any, what number of copies of the map above named have been sold or disposed of by you, or by others for you, for your own benefit, their, or either of their benefit; and for what price or prices said maps have been sold for and continue to be sold for?

3. Whether any, and if any, what number of copies of the above named maps remain unsold, and in whose hands or possession said maps, or any of them, are or remain?

4. Who printed the maps above named, and where, and at what

Stevens vs. Gladding & Proud.

place were they printed; by whom were said maps colored; by whom were they filled up ready for sale; and at what price or prices?

5. Who engraved the copperplate from which the above named map was printed; and at what cost or price, in whole or in part?

6. Who drafted on the copperplate or otherwise the railroads and other alterations and additions to the map above named, and at what cost or expenses?

7. In whose hands or possession is the copperplate on which you, or some other person or persons for you, have engraved the map above named?

8. Who were, and now are your servants, workmen, agents, and others, who assisted you in printing, publishing, selling, and exposing to sale, all or any of the above named maps, for your or their use or benefit, or for either of their use or benefit; and who confederated with you and others, or with you alone, for the purpose of printing, publishing, reading, or exposing to sale, for your or their profit, use, and benefit, the map above named?

In all which particulars, the said complainant excepts to the answer of the said defendants as evasive, imperfect, and insufficient; and humbly prays that the said defendants may be compelled to put in full and sufficient answers thereto.

JAMES STEVENS, Complainant.

And it was further ordered at the same term, that the respondents have leave to sell maps, upon giving bond in a sum to the satisfaction of the clerk that the proceeds of the sale abide the result of the suit.

And a bond was afterwards given in the words following, to wit:

Bond.

Know all men by these presents, that we, Royal Gladding and Isaac T. Proud, of the city and county of Providence, in the State of Rhode Island, booksellers and stationers, doing business under the firm of Gladding & Proud, as principal, and Shubael Hutchins, of said city, county, and State aforesaid, as surety, are held and firmly bound unto James Stevens, of the town and county of Newport, in said State of Rhode Island, in the sum of three thousand dollars, to be paid to said Stevens, his executors, administrators, and assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this twenty-fourth day of August, A. D. one thousand eight hundred and forty-eight.

The condition of the above obligation is such, that whereas the said Stevens is now prosecuting before the circuit court of the United States, for the first circuit and for the Rhode Island district, a bill in equity against the said Gladding & Proud, for matters growing out of the printing and publishing a map of the State of Rhode Island and Providence Plantations, by said Gladding & Proud, the copyright of said

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Sloane vs. Gladding & Proud.

map being claimed by said Stevens, and an injunction having been issued heretofore upon the said Gladding & Proud against publishing, selling, &c. the said map, is now by agreement of the parties and order of court so modified, that the said Gladding & Proud "have leave to sell said map upon giving bond, in a sum to the satisfaction of the clerk, that the proceeds of the sale abide the result of the suit."

Now, therefore, if the said Gladding & Proud shall well and truly account for the entire proceeds of the sales made by them of the map aforesaid, and pay over the whole or such part of said proceeds as they may by the decree of said circuit court, or an appeal by the appellate court, be decreed to pay, then the before written obligations shall be void and of no effect, otherwise shall remain in full force and virtue.

ROYAL P. GLADDING, [SEAL]
ISAAC PROUD, [SEAL]
SHUBAEL HUTCHINS. [SEAL]

Signed, sealed, and delivered in presence of—(the words "made by them," on the 2d page, being first underlined)—

L. B. FRENZEE.

Witness to signature of Shubael Hutchins—

EDWARD A. GREENE.

Approved,

JOHN T. PITMAN, Clerk.

At the following rule day in October, 1848, the following orders were entered:

Rule day, October, 1848.

Walter S. Burgess, esq., who has heretofore been solicitor of record in the above cases, having moved at the June term, 1848, to have his name stricken from said cases on the docket, it is now ordered that his name be taken off as of that term.

The respondents move in both said cases for surely for costs. It is ordered that surely be given in the sum of \$200, to the satisfaction of the district clerk within twenty days.

Exceptions overruled without costs, and replication ordered to be filed in fifteen days, otherwise causes to stand on bill and answer.

In accordance with the foregoing order, the surely required was given as follows:

Bond for costs.

Know all men by these presents, that we, James Stevens, of Newport, in the Rhode Island district, as principal, and Jonathan T. Almy, of the same Newport merchant as surety, are held and bound firmly bound unto Royal Gladding and Isaac T. Proud, doing business under the firm of Gladding & Proud, booksellers, of the city and county of Providence, in said district, in the full and just sum of two hundred dol-

Answer to Gladding & Prout.

ans, to the payment of which sum to the said Gladding & Prout, their executors, and administrators, we hereby bind ourselves, our executors, and administrators by these presents.

The condition of the above obligation is such, that whereas James Stevens, of Newport, in said district, has commenced a suit by bill in equity, and which is now pending in the circuit court of the United States for said Rhode Island district, against the said Gladding & Prout, and the said court has ordered that the said James Stevens shall give to the said Gladding & Prout security for costs in said suit; now, if the said Stevens, as principal, and Jonathan T. Almy, as surety, shall well and truly pay, or cause to be paid, all costs which the said James Stevens shall by any decree or order of said court be adjudged to pay in said suit, then this obligation to be void, otherwise to remain in full force.

Sealed with our seals, and dated this eleventh day of October, 1848.

JAMES STEVENS, [SEAL.]
JONATHAN T. ALMY. [SEAL.]

Witness—E. TRAVETT,
JOHN STEVENS.

And at the same term, a motion was made by the complainant for a rehearing, which was afterwards withdrawn, and leave given to amend bill in sixty days, and also to amend answer, if necessary.

And afterwards, at the same term, on motion of respondent, it was ordered, that the complainant, he not having amended his bill as above allowed, file his replication in thirty days, in default whereof the cause to be set down for hearing at the June term on bill and answer.

And at the April rule day, 1849, the complainant filed in court the following petition for a commission to take testimony:

Petition for commission.

To the honorable circuit court of the United States, for the Rhode Island district.

The complainant in this bill prays a commission to him to take testimony, and proposes that the testimony be taken upon oral interrogatories, by the parties or their agents, without filing any written interrogatories.

JAMES STEVENS, for himself.

To JOHN T. PRUITT, esq.,
Clerk circuit court, Rhode Island district.

Which was not acted upon, because no replication had been filed within the time specified. On the 21st of said April the following replication was filed:

Stevens vs. Gladding & Proud.

Replication.

UNITED STATES CIRCUIT COURT,
Rhode Island district.

James Stevens }
vs. { In equity.
Gladding & Proud. }

The replication of James Stevens, complainant, to the answer of Royal Gladding and Isaac T. Proud: This repliant saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith, that he will ever and prove his said bill to be true, certain, and sufficient in law to be answered unto, and that the said answer of said defendant is uncertain, untrue, and insufficient in law to be replied unto by this repliant; without this, that any other matter or thing whatever, in the said answer contained, material or essential in the law to be replied unto, confessed, and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

JAMES STEVENS, Complainant.

And another petition for a commission to take testimony was filed April 25th, as follows:

In bills, James Stevens }
vs. {
Isaac H. Cady, }
' And same
vs.
Gladding & Proud. }

When on the rule day in October last, bonds were required of me, it was inquired how many depositions would probably be taken; my answer was, "not exceeding three or four;" then the bonds were ordered to be given for two hundred dollars. I inferred from this, that I could take testimony at any time when the commission should issue; and in consequence of my exceptions being overruled, that the verdicts which were filed before, and which were, and will be, filed with the papers in these bills, would stand. In fact, I left these replications among the papers with the bills, for the purpose of their being ready filed in court, to be used when required. At the November term of this court I applied for and obtained permission to amend my bill; and it was so done in sixty days, or go to trial on bill and answer.

At the expiration of the sixty days I was concealed with sickness, and remained in bed 100 days, and am still too poorly to leave my room.

[R. 67, D. T., 1853.]—3

I applied on the 30th March to the circuit court for commissions to issue to take testimony, and sent my application to the clerk of this court on that day, and requested the clerk to enter on the order book "The complainant in bills, James Stevens vs. Isaac T. Cady, Same vs. Gladning & Proud, applies for commissions to issue to take testimony in said cause." Rule day, April, 1849. The commission may be joint. This complainant now prays this honorable court, that he may now file his replication, as those already filed have been considered not in proper time, and that the objections of these respondents' counsel to filing them replications be overruled, and that the commission issue.

JAMES STEVENS.

Rule day, May, 1849.

And at the rule day in June following, the respondents consented to the issuing of the commission under the following terms:

Agreement of respondents.

We agree that a commission may issue to take the testimony of witnesses on interrogatories in the cases, Stevens vs. Cady, and Stevens vs. Gladning & Proud, on condition that the cases shall be tried at the next term of the circuit court, if the respondents claim a trial, and that reasonable notice and accommodation be extended to respondents and counsel in taking the testimony.

TILLINGHAST & BRADLEY,
For respondents.

Providence, June 5th, 1849.

Whereupon, the following commission issued:

Commission.

(L. S.) UNITED STATES OF AMERICA,
Rhode Island district, &c.

Circuit court of the United States, within and for the Rhode Island district.

To JOSEPH S. PITMAN,
Of Providence, in said district.

Know ye, that reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed of Charles E. Newell, to be used in a certain cause in equity, now pending in said court, wherein James Stevens is complainant, against Gladning & Proud, respondents.

And to this end, at certain days to be by you appointed for that purpose, to cause said witness as aforesaid to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to

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Stevens vs. Gladding and Pond.

writing, and to be subscribed by each of said witnesses in your presence, And the same so taken and subscribed to return, together with this commission and your doings herein enclosed, sealed and directed to the circuit court aforesaid, as soon as may be.

In testimony whereof we have caused the seal of the said circuit court to be hereunto affixed.

Witness the honorable Roger B. Taney, our chief justice at Providence, this ninth day of June, in the year of our Lord one thousand eight hundred and forty-nine.

JOHN T. PITMAN, Clerk,

N. B.—You shall not, except by the consent of the parties, in writing, permit either party to attend at the taking of the depositions, either himself, or by any attorney or agent, nor to communicate by interrogatories or suggestions with the deponent whilst giving their deposition in answer to the interrogatories annexed to this commission. And you shall take such deposition in a place separate and apart from all other persons, and permit no person to be present during such examination, except the deponent and yourself, and such disinterested person (if any) as you may think fit to appoint as a clerk, to assist you in reducing the deposition to writing. And you shall put the several interrogatories and cross interrogatories to the deponent in their order, and take the answer of the deponent to each, fully and clearly.

RHODE ISLAND DISTRICT, &c.

Clerk's office, circuit court, at Providence, June 13th, 1849.

Then personally appeared the above named Joseph S. Pitman, and made oath that he would faithfully and impartially discharge his duties according to the best of his skill and understanding.

Before me, JOHN T. PITMAN, Clerk.

CIRCUIT COURT OF THE UNITED STATES,
Rhode Island district.

Interrogatories to be propounded to Charles E. Newell, of the city and county of Providence, district of Rhode Island, in the bill, James Stevens vs. Gladding & Pond, booksellers and stationers.

Did you or not purchase of Gladding & Pond, booksellers and stationers, in the city of Providence, district of Rhode Island, one of the maps of the State of Rhode Island, &c., published by Isaac H. Cady, A. D. 1846? If yes, when, where, and at what price; can you show said map; have you any means of identifying said map?

JAMES STEVENS.

Cross interrogatories waived.

TILLINGHAST & BRADLEY,

For respondents.

To the honorable the circuit court of the United States, for the Rhode Island district.

Joseph S. Pitman, the within named commissioner, respectfully avers, that on the fourteenth day of June, A. D., 1849, Charles E. Newell, within named, having been first duly sworn, appeared at his office to give evidence in the cause in equity, now pending, in the circuit court for the district aforesaid, wherein James Stevens is complainant, and Gladding & Proud are respondents; and having been duly sworn to testify the truth, the whole truth, and nothing but the truth, gave his deposition hereto annexed, which was reduced to writing by me in his presence, and signed by him in my presence, no other person being present.

JOSEPH S. PITMAN, *Commissioner.*

Providence, June 14, 1849.

Commissioner's fees—

One deposition	- - -	\$2 00
Citation to witness	- - -	50
<hr/>		
		\$2 50

I, Charles E. Newell, of lawful age, of the city and county of Providence, and State of Rhode Island, being first cautioned and sworn, on oath depose and say:

Interrogatory propounded by James Stevens.

Did you or not purchase of Gladding & Proud, booksellers and stationers, in the city of Providence, district of Rhode Island, one of the maps of the State of Rhode Island, &c., published by Isaac H. Cady, A. D. 1846? If yea, when, where, and at what price, can you show said map; have you any means of identifying said map?

Answer. I did purchase of Gladding & Proud such map; it was the latest edition of Stevens's map. I purchased it the first day of July, 1847, at their bookstore. I paid two dollars for it. I can show the map. I have it in my office. I have a private mark upon the map by which I can identify it.

CHARLES E. NEWELL.

Witness fees—One day's attendance, \$1 25.

Subscribed and sworn to this fourteenth day of June, A. D. 1849.

Before me,

JOSEPH S. PITMAN,
Commissioner.

And the cause having been continued to the present term, is now called for hearing upon the bill, answer, and other pleadings in the case, and is heard, and the following decree entered:

Decree.

This cause came on to be heard on the bill, answer, replication, depositions, and other papers in the case, and after the hearing it is ordered by the court that the following entry be made on the minutes in relation to the same:

"The court differ in opinion as to the effect of the sale of the property, but agree that injunction cannot issue without a return of the money paid for the plate."

And afterwards at the same term, Mr. Stevens having the election to return the price of the plate or not, elected not to return the same, upon which the respondents move that the bill be dismissed, which is dismissed as follows:

"This cause having been heard on the bill, answer, and other pleadings herein, and the complainant having refused to return the price of the plate of the tinsp in question as required by the court,

It is now on motion of the respondents, and by the consideration of the court, ordered, adjudged, and decreed, that the said bill be, and the same is hereby, dismissed with costs.

November term, A. D. 1849.

Ordered to be entered as the decree of the court.

JOHN T. PITMAN,

Clerk of circuit court.

Such were the proceedings in the case up to the November term, A. D. 1853, when the following was filed in court:

Petition of appeal.

RHODE ISLAND DISTRICT, &c.

Circuit court of the United States, November term, A. D. 1853.
To the honorable circuit court of the United States, in and for the Rhode Island district.

Respectfully represents,

James Stevens, of the town and county of Newport, in the district of Rhode Island, that on the twenty-fourth day of November, A. D. 1849, a decree was made and pronounced by said court, in a certain cause in equity pending in said court, whereby your petitioner, your complainant, and Royal Gladding and James J. Pound, of the city and county of Providence, in said Rhode Island, to whom and to whom, doing business under the firm of Gladding & Pound, were respondents, whereby said cause was ordered to be dismissed.

And said James Stevens is now desirous of and hereby claims an appeal from said decree to the Supreme Court of the United States, next to be held in the city of Washington, in the District of Columbia, on the first Monday of December, A. D. 1853.

Wherefore he asks that said appeal be allowed under the circumstances.
(Signed) JAMES STEVENS.

November term, 8th day, 1853.

Ordered, that the appeal be allowed upon bond being filed with sufficient surety in the sum of two hundred dollars, to be approved by the clerk.

B. R. CURTIS,
Associate Justice, S. C. U. S.

Bond for costs.

RHODE ISLAND DISTRICT.

Know all men by these presents, that I, James Stevens, as principal, and Jonathan T. Almy, as surety, both of Newport, in said district, are held and firmly bound unto Royal Gladding and Isaac T. Proud, of the city and county of Providence, in said district, in the full and just sum of two hundred dollars, to the payment of which sum, unto the said Royal Gladding and Isaac T. Proud, their executors, and administrators, by these presents,

The condition of the above obligation is such, that whereas, the said James Stevens has appealed (in) a certain cause in equity wherein the said Stevens is complainant, and the said Gladding and Proud are respondents, from a decree rendered therein dismissing said bill at the November term, A. D. 1849, of said court to the Supreme Court of the United States, next to be holden at Washington, in the District of Columbia, on the first Monday of December next.

Now, therefore, if the said James Stevens shall prosecute his said appeal before the Supreme Court of the United States with effect, and shall well and truly pay all such costs and damages as shall be adjudged for him to pay by the said Supreme Court, or by said circuit court, by reason of said appeal, then the before written obligation shall be void and of no effect, otherwise it shall remain in full force and effect.

Sealed with our seals, and dated the twenty-eighth day of
A. D. eighteen hundred and fifty-three.

JAMES STEVENS, [L. S.]
JONATHAN T. ALMY. [R. S.]

Signed, sealed, and delivered in presence of—

JOSEPH BUTTEMAN,
CHARLES BROWNELL.

Approved, November 29th, 1853.

J. T. PITMAN, Clerk.

RHODE ISLAND DISTRICT, sc.

Clerk's office, circuit court, at Providence, November 30th, 1853.

I, John T. Pitman, clerk of said court for said district, do hereby certify, that the foregoing twenty-nine (though page 31) pages contain a

true transcript from the record of the case, James Stevens vs. Gladding & Proud, disposed of November term, 1849; and also of the petition for appeal and appeal bond, duly examined and compared.

In testimony whereof I have hereunto set my hand and the [SEAL.] seal of said circuit court, on the day and year above written.

JOHN T. PITMAN, Clerk.

RHODE ISLAND DISTRICT, sc.

[U. S.] The President of the United States of America, to the marshal of said district, or to his deputy, greeting:

You are hereby required to make known to Royal Gladding and Isaac T. Proud, of the city and county of Providence, in the State of Rhode Island, now or late booksellers and stationers, doing business under the firm of Gladding & Proud, that in a certain cause in equity, disposed of at the November term, A. D. 1849, of the circuit court of the United States, within and for the Rhode Island district, wherein James Stevens, of the town and county of Newport, in said State of Rhode Island, was complainant, and the said Gladding & Proud were respondents. The said complainant has appealed from the decree of the said circuit court rendered against him, unto the Supreme Court of the United States, next to be helden at Washington, within and for the said United States, on the first Monday of December next, which appeal has been duly allowed.

And that they, the said Gladding & Proud, then and there be before the said Supreme Court, within thirty days after notice hereof, to hear the proceedings on the said appeal, if it shall seem expedient unto them, and further to do and receive what in the said Supreme Court shall be ordered adjudged, and decided in this behalf; and make due return of this citation with your doings thereon.

In witness whereof I have caused the seal of the said circuit court to be hereunto affixed, and have subscribed these presents, this thirtieth day of November, A. D. 1853.

JOHN PITMAN

District judge U. S., Rhode Island district.

UNITED STATES OF AMERICA,
RHODE ISLAND DISTRICT, sc.

November 30th, 1853. Made service of the within by leaving a true and attested copy hereof at the last and usual place of abode of Royal Gladding and Isaac T. Proud.

CHARLES E. NEWELL,

Deputy U. S. marshal.

Fees—2 services	• • -	\$4 00
2 copies	• • -	1 00
travel	• • -	10

 $\$5 10$